

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

BRIAN OTERO, individually and on behalf of all others similarly situated,)	
)	
Plaintiff,)	Case No. 1:12-cv-3148
v.)	
)	Hon. Amy J. St. Eve
THOMAS J. DART, SHERIFF OF COOK COUNTY and COOK COUNTY, ILLINOIS,)	
)	
Defendants.)	
)	

RESPONSE TO MOTION TO ENFORCE SETTLEMENT PAYMENT

For his response to the Motion to Enforce Settlement Payment (Doc. 331), Plaintiff states as follows:

This case settled in 2016 and, after the appropriate notice and opt-out period, settlement payments were disbursed to those class members who submitted a valid and timely claim. To administer the settlement, the parties retained – and the Court approved – KCC, LLC, a reputable third-party settlement administrator. Pursuant to the notice plan approved by the Court, the settlement administrator received the addresses of class members that the Sheriff’s Office had in its records and updated those addresses using the National Change of Address database maintained by the U.S. Postal Service.

The notice and the claim form were thereafter mailed to class members. Mailings that were returned with forwarding addresses were re-mailed to the updated addresses. With respect to mailings returned without forwarding addresses, the settlement administrator conducted address searches using credit and other public source databases to attempt to locate new addresses to which the notice and claim form were re-mailed. The settlement administrator also established a website

and toll-free telephone number that provided information about the settlement. Defendants also posted a summary of the notice at the Department of Corrections in areas where male detainees are housed or frequently held. In other words, the settlement administrator used all commercially reasonable means necessary to notify class members of the settlement, all of which was done in accordance with the Court-ordered notice plan.

On August 11, 2016, this Court granted final approval of the settlement. Among other things, the Court found that the notice program outlined above “adequately informed Class Members of the terms of the Settlement Agreement” and “satisfied the requirements of Rule 23(c)(2)(B) and Rule 23(e)(1).” *See* August 11, 2016 Order at 2 (Doc. 286).

Under the terms of the settlement agreement and Court-approved schedule, the deadline for class members to submit a claim was June 20, 2016. As is clear from his own statements and correspondence in his Motion to Enforce Settlement Payment, Cortillas Harris did not contact the settlement administrator until July of 2016 – after the deadline for submitting a claim had expired. Since that time, Mr. Harris sent a number of letters to Class Counsel requesting that he receive a settlement payment. Class Counsel responded to each of Mr. Harris’s inquiries and explained to him that he did not submit a timely claim and, therefore, was not eligible for a settlement payment.

It should also be noted that, like Mr. Harris, other class members submitted untimely claims as well (to the best of undersigned counsel’s recollection, there were less than 200 untimely claims). Class Counsel attempted to persuade Defendants to accept those late claims – largely for the very reason we are again back before the Court – but Defendants declined to accept any late claims. Thus, there is not much more, if anything, the parties can now do with respect to Mr. Cortillas request to honor his untimely claim.

Dated: October 5, 2017

Respectfully Submitted,

BRIAN OTERO, individually and on behalf
of all others similarly situated,

By: /s/ Jacie C. Zolna
One of the Attorneys for Plaintiff
and the Class

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that he served the foregoing **Response to Motion to Enforce Settlement Payment** upon:

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via the electronic filing system on this 5th day of October, 2017, and

Cortillas Harris
IDOC#: B-73808
P.O. Box 999
Canton, Illinois 61520

via the U.S. Mail on this 5th day of October, 2017.

/s/ Jacie C. Zolna